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REMARKS

Claims 1-20 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Applicants would like to thank the Examiner for taking the time for a telephone interview on May 19, 2003, in which claims 1 and 8 were discussed. In the interview, the Examiner gave an example as to how the Examiner believed U.S. Patent No. 5,794,735 to Sigl could be read on claim 1. Furthermore, it was agreed that the term "capabilities" used in the claims is a positive limitation because the claims do not say that an element is capable of performing a function, but the word "capabilities" refers to an element of the claim.

In the Office Action, claims 2-5, 9-12 and 16-20 have been objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants would like to thank the Examiner for that notification.

Claims 1, 6-8, 13, 14 and 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,794,735 to Sigl. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon the prior art. *In re Sun*, 31 USPQ 2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicants respectfully assert that the Examiner has not yet met her burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Claim 1 defines a method of controlling a vehicle including, among other things, inputting an intended driving demand to a vehicle motion control subsystem, the intended driving demand requesting a vehicle behavior modification, providing a plurality of coordinator subsystems, providing at least one actuator control subsystem for each coordinator subsystem, outputting actuator capabilities of the at least one actuator control subsystem to an associated one of the plurality of coordinator subsystems, outputting coordinator capabilities of each coordinator subsystem to the vehicle motion control subsystem, calculating at least one

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coordinator demand signal with the vehicle motion control subsystem, the at least one coordinator demand signal being determined according to the coordinator capabilities and the intended driving demand, outputting the at least one coordinator demand signal to at least one of the coordinator subsystems, calculating at least one actuator demand signal with each of the at least one of the coordinator subsystems, the at least one actuator demand signal being determined according to the actuator capabilities and the at least one coordinator demand signal outputted to the at least one of the coordinator subsystems, and outputting the at least one actuator demand signal to the at least one actuator control subsystem, wherein a combination of each at least one actuator demand signal provides directions for the at least one actuator control subsystem to perform the vehicle behavior modification of the intended driving demand.

The prior art of record does not disclose or suggest the above noted features of claim

1. According to the Office Action, every phrase after the word "capabilities" in claim 1 was not given any patentable weight. However, as discussed in the interview and agreed with by the Examiner, the use of the word "capabilities" in claim 1 is not functional language. Accordingly, the language in every paragraph after the word "capabilities" has patentable weight. Furthermore, according to the Office Action, the Sigl '735 patent discloses all of the elements of the method of claim 1 in Fig. 1. However, Applicants submit that all of the features of claim 1 are not shown in Fig. 1. Significantly, the Sigl '735 patent discloses nothing regarding capabilities of a coordinator subsystem, much less outputting capabilities of any subsystem or calculating any signals according to capabilities of a subsystem. In the interview, the Examiner stated that the Sigl '735 patent could be interpreted many ways to anticipate claim 1. However, Applicants cannot see any example of the Sigl '735 patent that could be used to read on claim 1. Applicants respectfully request at least one example from the Examiner in the next Office Action if the Examiner maintains the present rejection. Applicants note that the Examiner is required to describe how the reference covers the claim if the reference is complex, and Applicants request that the Examiner define the particular part as disclosed in the Sigl '735 patent used to reject the elements of the claims and clearly explain how the parts of the Sigl '735 patent interact as required by 37 C.F.R. §1.104(c)(2).

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Claims 6 and 7 depend from claim 1, and since claim 1 defines unobvious patentable subject matter, claims 6 and 7 define patentable subject matter. Furthermore, as stated above, the Sigl '735 patent does not disclose capabilities for a subsystem, much less how the capabilities are determined. Accordingly, claims 6 and 7 are in condition for allowance.

Claim 8 defines a vehicle control system including, among other things, a vehicle motion control subsystem having a control input and a control output, the control input communicating an intended driving demand to the vehicle motion control subsystem, the intended driving demand requesting a vehicle behavior modification, a plurality of coordinator subsystems, each coordinator subsystem including a coordinator input and a coordinator output, each coordinator subsystem communicating coordinator capabilities of the coordinator subsystem to the system input of the vehicle motion control subsystem, and at least one actuator control subsystem for each coordinator subsystem, each actuator control subsystem having an actuator output communicating actuator capabilities of the actuator control subsystem to the coordinator input of an associated one of the plurality of coordinator subsystems, wherein the vehicle motion control subsystem calculates at least one coordinator demand signal, the at least one coordinator demand signal being determined according to the coordinator capabilities and the intended driving demand, wherein the vehicle motion control subsystem outputs the at least one coordinator demand signal to the coordinator input of at least one of the coordinator subsystems, wherein each coordinator subsystem calculates at least one actuator demand signal, the at least one actuator demand signal being determined according to the actuator capabilities and the at least one coordinator demand signal outputted to the at least one of the coordinator subsystems, wherein each coordinator subsystem outputs the at least one actuator demand signal to at least one actuator control subsystem, and wherein a combination of each at least one actuator demand signal provides directions for the at least one actuator control subsystem to perform the vehicle behavior modification of the intended driving demand.

The prior art of record does not disclose or suggest the above noted features of claim 8. According to the Office Action, every phrase after the word "capabilities" in claim 8 was not given any patentable weight. However, as discussed in the interview and agreed by the

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Examiner, the use of the word "capabilities" in claim 8 is not a functional language.

Accordingly, the language in every paragraph after the word "capabilities" has patentable weight. According to the Office Action, the Sigl '735 patent discloses all of the elements of the method of claim 8 in Fig. 1. However, Applicants submit that all of the features of claim 8 are not shown in Fig. 1. Significantly, the Sigl '735 patent discloses nothing regarding capabilities of a coordinator subsystem, much less outputting capabilities of any subsystem or calculating any signals according to capabilities of a subsystem. In the interview, the Examiner stated that the Sigl '735 patent could be interpreted many ways to anticipate claim 8. However, Applicant cannot see any example of the Sigl '735 patent that could be used to read on claim 8. Applicant respectfully requests at least one example from the Examiner in the next Office Action if the Examiner maintains the present rejection. Applicant notes that the Examiner is required to describe how the reference covers the claim if the reference is complex, and Applicants request that the Examiner define the particular part as disclosed in the Sigl '735 patent used to reject the elements of the claims and clearly explain how the parts of the Sigl '735 patent interact as required by 37 C.F.R. §1.104(c)(2).

Claims 13 and 14 depend from claim 8, and since claim 8 defines unobvious patentable subject matter, claims 13 and 14 define patentable subject matter. Furthermore, as stated above, the Sigl '735 patent does not disclose capabilities for a subsystem, much less how the capabilities are determined. Accordingly, claims 13 and 14 are in condition for allowance.

Claim 15 defines a method of controlling a vehicle including, among other things, receiving at least one driver input from a driver of the vehicle, providing at least one active assist program having at least one active input, the at least one active assist program having an on setting wherein the at least one active assist program outputs at least one active input and an off setting wherein the at least one active assist program does not output at least one active input, inputting an intended driving demand for implementing a vehicle behavior modification into a vehicle motion control subsystem, proving an implementation subsystem, and outputting at least a portion of the intended driving demand from the vehicle motion control subsystem to the implementation subsystem, wherein the intended driving demand is derived from a combination of the at least one driver input and the at least one active input if the at least one

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active assist program is in the on setting and if the driver of the vehicle does not overrule the at least one active assist program, otherwise the intended driving demand is derived from the at least one driver input.

The prior art of record does not disclose or suggest the above noted features of claim 15. Specifically, the Sigl '735 patent does not disclose an intended driving demand derived from a combination of at least one driver input and at least one active input if an at least one active assist program is in an on setting and if the driver of the vehicle does not overrule the at least one active assist program, otherwise the intended driving demand is derived from the at least one driver input. According to claim 15, the intended driving demand can only be derived from (1) a combination of the at least one driver input and the at least one active input, if the at least one active assist program is in the on setting and if the driver of the vehicle does not overrule the at least one active assist program or (2) the at least one driver input. However, the Sigl '735 patent discloses directions to the device 14 wherein the operating control element 44 overrules the signal in the output line 12 even if the driver controls the engine output by actuating the gas pedal above the maximum speed set by the operating control element 44. Therefore, in this situation, any active assist program is in the on setting and the driver of the vehicle overrules the at least one active assist program. However, in this situation, any intended driving demand is not derived from at least one driver input. The intended driving demand is derived from the single output of the operating control element 44. Accordingly, claim 15 is in condition for allowance.

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All pending claims 1-20 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

ERIK COELINGH ET AL.

By: Price, Heneveld, Cooper,
DeWitt & Litton

619103
Date

Marcus P. Dolce
Marcus P. Dolce
Registration No. 46 073
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

MPD/msj